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Attorney Docket No.: DEX-0214
Inventors: Macina et al.
Serial No.: 09/909,567
Filing Date: July 20, 2001
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REMARKS

Claims 1-16 are pending in the instant patent application. Claims 1-16 have been subjected to a Restriction Requirement as follows:

Group I, claims 1 and 2, drawn to a LSG which is either a polynucleotide or polypeptide, classified in class 536 and 530, subclass 23.1 and 300, respectively;

Group II, claim 3, drawn to diagnosis of the presence of lung cancer in a patient, classified in class 435, subclasses 6 and 7.1;

Group III, claims 4-7, drawn to diagnosis or staging of metastases or cancer regression or remission regarding lung cancer in a patient, classified in class 435, subclasses 6 and 7.1;

Group IV, claim 8, drawn to identification of potential therapeutic agents for use in imaging and treating lung cancer, classified in class 514, subclasses 1, 2, or 44;

Group V, claims 9 and 10, drawn to antibodies, classified in class 530, subclass 387.1;

Group VI, claims 11 and 12, drawn to imaging lung cancer via antibody administration, classified in class 435, subclass 4;

Group VII, claim 13, drawn to a method of treating lung cancer utilizing a compound which downregulates expression or activity of an LSG, classified in class 514, subclasses 1, 2, or 44;



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Group VIII, claims 14 and 14, drawn to a method of inducing an immune response via polypeptide delivery to a human patient, classified in class 424, subclass 184.1; and

Group IX, claim 16, drawn to an LSG vaccine, classified in class 424, subclass 184.1.

The Examiner suggests that the Groups are distinct, each from the other.

Applicants respectfully traverse this restriction requirement.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A proper search of the prior art relating to an LSG polynucleotide or polypeptide of Group I should also reveal art relating to uses thereof as set forth in the claims of Groups II through IX. Thus, it does not appear that a serious burden would be placed upon the Examiner if restriction were not made.

Accordingly, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, it is respectfully requested that this Restriction Requirement be withdrawn.



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In an earnest effort to be completely responsive, however, Applicants elect to prosecute Group I, claims 1 and 2, with traverse.

The Examiner also suggests that each Group detailed above reads on patentably distinct sequences.

In addition, the Examiner is requiring that an election between species A, an LSG which is a polynucleotide, and Species B, an LSG which is a polypeptide, be made.

In accordance with MPEP § 808.01, an election of species should be made when a generic claim recites such a multiplicity of species that an unduly extensive and burdensome search is required. In the instant case, however, the claims are not drawn to such a large multiplicity that search of all species would be unduly extensive or burdensome. Only 2 groups, namely, LSG polynucleotides and LSG polypeptides have been specifically set forth by the Examiner as different species and only 24 polynucleotides are set forth in the claims. Accordingly, reconsideration of this species election requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect the LSG polynucleotide of SEQ ID NO:12, with traverse.



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Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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